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Cincinnati Bell
Telephone®

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October 31, 1994

William F. Caton, Acting Secretary
1919 M Street, NW, Room 222
Washington, DC 20554

In the Matter of:

Policies and Rules Implementing
the Telephone Disclosure and
Dispute Resolution Act

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CC Docket 93-22

Dear Mr. Caton:

Enclosed please find an original and nine copies of the
Reply Comments of Cincinnati Bell Telephone Company (CBT) in the
above-referenced proceeding.

Please date stamp and return the enclosed duplicate copy of
this letter as acknowledgement of its receipt. Questions
regarding this document should be directed to Jerlian Jones at
the above address or by calling (513) 397-1408.

Sincerely,

Cheryl N. Campbell

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Policies and Rules Implementing)	CC Docket No. 93-22
the Telephone Disclosure and Dispute)	
Resolution Act)	

**REPLY COMMENTS OF
CINCINNATI BELL TELEPHONE COMPANY**

Cincinnati Bell Telephone Company (CBT) respectfully submits the following reply to comments filed on October 11, 1994 in the above referenced docket in response to the Commission's Order on Reconsideration and Further Notice of Proposed Rule Making (FNPRM) released August 31, 1994. While CBT applauds the efforts of the Commission to protect consumers against deceptive or fraudulent billing practices, there are ways to strengthen that protection and concurrently simplify the billing process.

800 Numbers Should Remain Toll-Free

Numerous comments suggest that the integrity of toll-free 800 number calling should be maintained.¹ The Commission in its FNPRM states that "800 numbers are

¹ Comments of BellSouth at pp. 5-7, GTE at p. 2, USTA at p. 5, Consumer Action at p. 2, NACAA at p. 2, New York Department of Public Services at p. 2, National Association of Attorneys General Telecommunications Subcommittee at pp. 2-3 and NTCA at p. 3.

widely perceived as being toll-free, a perception that Congress clearly sought to maintain in the TDDRA."² CBT concurs with those commenters, and with the apparent intent of the Commission and Congress, believing that all 800 calls should be toll-free, meeting the expectation of the caller. CBT goes one step further and, agreeing with Rochester Telephone Corporation and others,³ suggests that any charges incurred in the course of an 800 number call be charged to a generally accepted commercial credit card and in no event be permitted to appear on the caller's or the telephone subscriber's telephone bill.

The Commission proposes to amend Section 64.1504(b) to prohibit the use of 800 numbers to connect callers to any information service unless that service is provided under a presubscription or comparable arrangement.⁴ CBT suggests amending Section 64.10504 to state that 800 numbers may not be used to provide any information service unless that service is charged to a generally accepted commercial credit card. This would be consistent with the caller's expectations that calls made to 800 numbers are free and that services or merchandise ordered in the course of such calls must be paid for by commercial means unrelated to telephone service.

In addition the 800 number rule⁵ must be clarified. That rule, mirroring the Telephone Disclosure and Dispute Resolution Act (TDDRA),⁶ prohibits the use of any

² FNPRM at ¶ 25.

³ Comments of Rochester at pp. 1-3, APCC at pp. 2-3, USTA at p. 2.

⁴ FNPRM at ¶ 28.

⁵ 47 C.F.R. 9164.1504.

⁶ 17 U.S.C. ¶ 228(c)(6).

800 number in a manner which would result in "[t]he calling party being charged for information conveyed during the call unless the calling party has a presubscription or comparable arrangement"⁷ Nowhere is the term "information" defined. It is imperative that its meaning be clarified. A similar clarification is needed for the term "information services" used in the rules.⁸ This clarification is critical because of a directory service recently introduced by a major interexchange carrier.⁹ It is true that directory services are excluded from the definition of "pay-per-call services" by both the TDDRA¹⁰ and the rules,¹¹ but nowhere are "directory services" excluded from the term "information services." Common parlance would certainly suggest that directory services provide "information," which is the term used by both the TDDRA and the Commission's rule to clearly prohibit the use of any 800 number to provide information for a charge.

⁷ 47 C.F.R. ¶9164.1504(c).

⁸ See, for example, 47 C.F.R. ¶ 64.1505(b) and ¶ 64.1507(b). See, also, Comments of AT&T at p. 8.

⁹ MCI's 1-800-CALL-INFO service.

¹⁰ 17 U.S.C. ¶ 228(i)(2).

¹¹ 47 C.F.R. ¶ 64.1501(b).

Not only is the information provider prohibited from using any 800 number when there is a charge for the information, absent a presubscription or comparable arrangement, but the common carriers are required to prevent it¹² and apparently can be charged with criminal liability for knowingly failing to do so.¹³ CBT is faced with a dilemma. While it may wish to bill for directory services, if it bills for any 800 number information services, including directory services, it acts at its peril and may be subject to serious penalties. The only safe course of action is to refuse to bill for all such calls, particularly when it has no obligation to bill for them in any event.

For this reason, CBT's policy against billing for 800 number pay-per-call services will encompass all information services including directory service, at least until the Commission rules on AT&T's Emergency Motion regarding MCI's 1-800-CALL-INFO service.¹⁴ In the meantime, the Commission should eliminate the intolerable dilemma its rule creates for all common carriers by defining the intended meaning of the word "information" or by requiring, as CBT suggests above, that all charges incurred in the use of 800 numbers be billed to generally accepted commercial credit cards.

¹² 47 C.F.R. ¶ 64.1504.

¹³ See 17 U.S.C. ¶ 228(e)(1).

¹⁴ AT&T Corp. v. MCI Telecommunications Corporation, File No. E-94-____, Emergency Motion for Interim Relief, filed October 18, 1994.

Compliance Burden Should Be Placed upon Information Service Providers

CBT agrees with the many local exchange carrier (LEC) commenters¹⁵ that ask the Commission to clarify or modify its rules so that LECs are not held responsible for obtaining evidence of written presubscription agreements from interexchange carriers or information providers for whom LECs are acting as billing agents. To require LECs to obtain physical evidence of each presubscription agreement prior to billing for an information service would impose an extremely costly and excessive burden on LECs from an administrative and operational prospective. The Commission should simply require that LECs, in their billing contracts, require their billing customers to obtain written presubscription agreements in accordance with Commission rules.

Excessive Billing Information Is Not Desirable

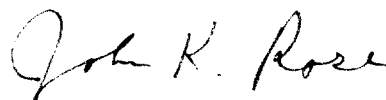
CBT also agrees with those commenters who urge the Commission not to require carriers to include service providers' names and business telephone numbers in the bill information concerning charges for information services.¹⁶ Such information, coupled with the notice requirements and the separate billing pages requirement could increase the size of telephone bills to an unacceptable level. It would also be difficult to maintain the accuracy of such information. CBT has recently redesigned its bills to respond to customers' expressed desires for simpler, clearer bills. The proposed rule would be contrary to those desires.

¹⁵ Comments of Ameritech at pp. 1-2, Bell Atlantic at pp. 2-3, BellSouth at p. 11, Rochester at pp. 1-2, SNET at p. 4 and USTA at p. 3.

¹⁶ Proposed Rule 64.1510(b).

In summary, CBT urges the Commission to preserve the valuable attributes of toll-free 800 number calling by requiring all charges associated with such calling to be made on commercial credit cards and not charged to telephone bills. In this connection the Commission should better define the terms "information services" and "information." In any event, carriers should not be required to police written presubscription agreements nor should they be required to provide voluminous information, such as the names and business telephone numbers of service providers, in their billing statements.

Respectfully submitted,

A handwritten signature in cursive script that reads "John K. Rose". The signature is written in dark ink and is positioned above a horizontal line.

John K. Rose

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October 31, 1994

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CERTIFICATE OF SERVICE

I, Judith A. Gardner, do hereby certify that I have caused a copy of the foregoing Reply Comments of Cincinnati Bell Telephone Company to be mailed via first class United States Mail, postage prepaid, to the persons listed on the attached service list.



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